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IN THE
Supreme Court of the United States
OCTOBER TERM, 1992

TXO PRODUCTION CORP.,
Petitioner,

v.

ALLIANCE RESOURCES CORP., TUG FORK LAND COMPANY, GEORGE KING, and GROVER C. GOODE,
Respondents.

On Writ of Certiorari to the Supreme Court of Appeals of West Virginia

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BRIEF OF THE BUSINESS COUNCIL OF ALABAMA AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

Amicus curiae will address the following issue:

Whether the continued pattern of excessive punitive damage awards after *Pacific Mutual Life Ins. Co. v. Haslip* requires articulation of more definite standards for determining whether a jury verdict satisfies Due Process.

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INTEREST OF THE AMICUS *

The Business Council of Alabama is a non-profit association of 2,200 businesses of all sizes and types, such as grocers, dry cleaners, restaurants and hardware stores, as well as utilities, manufacturers and insurers. Its members conduct business in every Alabama county, and face demands for punitive damages every day. In a state where such damages can and often do reach into the millions of dollars, punitive awards have a profound impact upon the economic stability of business.

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* The parties' letters of consent to the filing of this brief have been filed with the Clerk of the Court.

Despite the Court's mandate in *Pacific Mutual Life Ins. Co. v. Haslip*, 111 S.Ct. 1032 (1991), disparate punitive awards continue to be rendered and affirmed in Alabama on a scale exceeding pre-*Haslip* levels. The Alabama model for post-verdict review is not having the effect *Haslip* envisioned. To assist the Court in determining whether further standards are needed, *amicus* brings to the Court a summary of Alabama's post-*Haslip* experience. It also suggests a proposal for improved trial and appellate standards in the imposition of punishments.

INTRODUCTION AND SUMMARY OF THE ARGUMENT

If this Court is to consider the effectiveness of the Alabama model for post-verdict review of punitive damages envisioned in *Pacific Mutual Life Ins. Co. v. Haslip*, 111 S.Ct. 1032 (1991), common sense suggests the wisdom of reviewing Alabama's post-*Haslip* experience.[1] A review of Alabama trial and appellate results since March 4, 1991, reveals a troubling line of cases which either misapply *Haslip's* Due Process requirements or reject them altogether.

The Alabama model is ineffective. Punitive awards during the twelve months following *Haslip* reached an

[1] In *Haslip* this Court held that Alabama's jury instructions, in conjunction with its independent post-verdict review at both the trial and appellate stage, satisfied minimum procedural Due Process requirements. This post-verdict scheme, which we refer to as the "Alabama model," contemplates independent review of a punitive award in light of the following "Green Oil" factors, so-named because of their adoption in *Green Oil v. Hornsby*, 539 So. 2d 218 (Ala. 1989):

> (a) the relationship between punitive damages and the defendant's conduct; (b) the degree of reprehensibility of defendant's conduct; (c) the profitability to defendant of the wrongful conduct; (d) the financial position of defendant; (e) the plaintiff's cost of litigation; (f) the imposition of criminal sanctions against defendant; and (g) the existence of other civil awards against defendant for the same conduct.

See Haslip, 111 S.Ct. at 1045.

all-time high—a staggering $200 million dollars. In a state with one of the nation's smallest populations and poorest economies, such verdicts have a sadly debilitating effect.

That punitive damages have reached epidemic proportions in Alabama is both yesterday's news and today's.[2] Two of the four modern cases in which this Court has addressed the issue originated in this state.[3] And despite the Court's gesture in *Pacific Mutual Life Ins. Co. v. Haslip*, the problem of punitive damages has worsened. This is partially due to the lack of ascertainable standards in post-verdict judicial review. The root problem, however, is that juries still are not given meaningful instructions for exercising their discretion. Imposing more post-verdict review measures is no answer. Such an approach is analogous to addressing increased highway accidents by building more hospitals.

Our message as *amicus curiae*: It is no solution to simply reverse and remand this case for compliance with the Alabama model. State courts like Alabama's have failed to come to grips with *Haslip*. Legislatures like Alabama's may be powerless to act. If any lasting solution is to be found, this Court must articulate more definite standards for Due Process in the assessment of civil punishments—both in the imposition of the verdict and in post-verdict review.

[2] Frum, *Unreformed*, FORBES, Feb. 1, 1993, at 82 (analysis of the continuing incidence of multimillion dollar punitive verdicts in Alabama).

[3] *Pacific Mutual Life Ins. v. Haslip, supra; Aetna Life Ins. Co. v. Lavoie*, 475 U.S. 813 (1986).

ARGUMENT

I. THE ALABAMA MODEL REVIEWED IN *HASLIP* IS INEFFECTIVE

A. Punitive Damages Jury Verdicts Are Getting Worse

Disproportionate punitive damages verdicts under current procedures in Alabama have reached intolerable levels. In the two years since *Haslip* was handed down, punitive damages in this state have exceeded $350 million dollars. Since January 1, 1987, the total is over $650 million dollars. A ten-year survey yields nearly $800 million dollars.

These are not estimates but are actual amounts derived from a list of punitive damages compiled by *amicus* and reproduced in the Appendix at 3a. The list does not disclose the amount of money that was actually paid by defendants in these lawsuits because, in addition to occasional remittiturs, some cases settle after trial for a sum less than the jury awarded. It also, however, does not account for "shadow verdicts" in the form of other cases which settle before trial. For every case that reaches a verdict, scores of others settle before trial, with settlement results dictated in large part by previous verdicts in similar cases. The latest Alabama figures indicate that pretrial settlements occur in 97 percent of all civil cases.[4] Thus the damages figures compiled in the Appendix are derived only from the 3 percent of cases that are tried to a verdict.

When viewed collectively, the actual jury verdicts and their "shadow" consequences require no exaggeration to suggest that the issue of punitive damages in Alabama is a *billion* dollar matter. Concern over this issue is heightened by the fact that the increase in punitive damages has coincided with a decrease in total civil case filings. After a decade of substantial growth, circuit court

[4] *From the Editors*, 8 ALA. DEF. LAW. A.J. at 5 (October, 1992).

filings in Alabama decreased slightly in 1992,[5] yet punitive damages continued to increase in size and frequency.

As in most states, punitive damages in Alabama are state compelled action permitted by common law as a tool to further society's interest in regulating wrongful conduct. They are the civil court equivalent of criminal fines, which Alabama allows to be paid to the plaintiff rather than the State. Chief Justice Rehnquist has described such windfalls as a "bounty" authorized by the state for bringing an offender to justice. *Smith v. Wade*, 461 U.S. 30, 58 (1983) (Rehnquist, J., dissenting). Punitive damages claims which once were infrequent are now demanded in virtually every tort case. The result is a civil justice system heavily weighted with quasi-criminal features, producing punitive awards that are grossly out of balance with the actual harm, but which reward the plaintiff handsomely.

A post-*Haslip* example of unbridled jury discretion in Alabama is *Ira Gore v. B.M.W.*, No. 90-CV-9658 (Jefferson Co. Cir. Ct., June 8, 1992), on appeal (Nos. 1920324 and 1920325), involving a plaintiff who purchased an automobile which had a defective paint job. The plaintiff complained he was defrauded, purchasing an automobile as new when in fact its original paint job was contaminated by acid rain. In addition to the $4,000 difference in value of the car, plaintiff was awarded a windfall $4 *million* dollars to "punish" the defendant. The verdict was upheld in its entirety by the trial court. Additionally, plaintiff's attorneys obtained through discovery the names of other BMW customers who purchased similar cars. More such lawsuits are now pending.

In *Sheridan v. Northwestern Mut. Life Ins. Co.*, No. 89-CV-2505-PR (Montgomery Co. Cir. Ct., April 10, 1992), on appeal (No. 1911110), a jury awarded $25 mil-

[5] Source: State of Alabama, Administrative Office of Courts (1993).

lion to a couple who purchased an insurance product from an agent who pocketed some of the premiums, thus rendering the company as much a victim as the customers. When Northwestern found the problem it voluntarily restored all economic loss to the plaintiffs ($9,000) and to other customers who were victimized. The agent subsequently disappeared, abandoning his car at a nearby international airport. A jury awarded separate punitive damage verdicts of $12.5 million against the renegade agent and the company. The trial judge, however, ordered Northwestern to ante the *full* $25 million without any remittitur. While the case was pending, plaintiff's attorney issued a newspaper invitation to meet other potential plaintiffs at a local hotel. More such lawsuits are now pending.

The best barometer of the explosive growth of punitive damages in Alabama is a historical comparison of the size of wrongful death verdicts, which, since 1859, have consisted of *purely* punitive damages. *See* ALA CODE § 6-5-410 (1975); *Alabama Great Southern R.R. v. Burgess*, 116 Ala. 509, 22 So. 913 (1897); *Black Belt Wood Co. v. Sessions*, 514 So. 2d 1249 (Ala. 1986). Thus the law in that field has remained a constant against which to fairly measure the upward growth in punitive damages.[6] A table demonstrating the historical trend of wrongful death verdicts is reproduced in the Appendix at A1. Prior to 1900 the largest such verdict, adjusted to 1988 dollars, was $150,000. *Richmond & D.R.R. v. Freeman*, 97 Ala. 298, 11 So. 800 (1892). Before 1970 the largest verdict, adjusted to 1988 dollars, was $307,000. *Airheart v. Green*, 267 Ala. 689, 104 So. 2d 687 (1958); *Liberty Nat'l Life Ins. Co. v. Weldon*, 267 Ala. 171, 100 So. 2d 696 (1958). In the past five years, several multi-*million* dollar wrongful death verdicts have been rendered and

[6] It bears noting that Alabama is unique in the nation in allowing plaintiffs to recover punitive damages in wrongful death actions upon proof of nothing more than "simple negligence." *Black Belt Wood, supra* ($2.5 million punishment for "simple negligence").

affirmed, the largest being $7.5 million *after* remittitur from $15 million. *General Motors Corp. v. Johnston*, 592 So. 2d 1054 (Ala. 1992). In the two years since *Haslip* was handed down, punitive damage verdicts in wrongful death cases have exceeded $59 *million* dollars.

B. Disparate Punitive Damages Are Still Being Affirmed

The above discussion is not offered to suggest that Alabama has declined to remit *any* punitive awards since *Haslip*. However, the Alabama court is typical of state courts which have failed to come to grips with the principles outlined in *Haslip*. Instead of examining what amount is "reasonably necessary" to achieve the punitive purposes, the Alabama court asks what is the *most* a jury could reasonably award, and it remits the verdict to that sum.[7] This is the *Haslip* test applied in reverse. The court conducts its "comparative analysis" without reference to smaller verdicts, the effect of which is to continually raise the ceiling.

The rationale for the Alabama court's comparative analysis in relation to the *highest* similar awards stems from its insistence that a jury verdict carries a strong "presumption of correctness." Indeed, this insistence exposes an incorrect premise upon which the *Haslip* opinion relied in affirming the Alabama model: that the appellate court has the power to independently review a punitive damages award.[8] No less than four days after *Haslip* was published, the Alabama court struck down legislation

[7] For example, in *General Motors Corp. v. Johnston*, 592 So. 2d 1054 (Ala. 1992), the court justified its remittitur of a $15 million dollar wrongful death award to $7.5 million by pointing to other large verdicts in wrongful death cases ranging from $4 to $12.5 million "in order to assure some degree of uniformity." *Id.* at 1064.

[8] *See Haslip*, 111 S. Ct. 1032, 1044.

which statutorily authorized courts to abandon the "presumption of correctness" standard in reviewing punitive damages verdicts. *Armstrong v. Roger's Outdoor Sports, Inc.*, 581 So. 2d 414 (Ala. 1991). The effect of this standard is compounded by the fact that Alabama appellate courts impose a *double* measure of deference to punitive damages verdicts which have been upheld by the trial court, holding that the "presumption of correctness" is thereby "strengthened." *Id.* at 420.

In view of Alabama's extraordinarily deferential standard of review, it is not surprising that disparate punitive awards have repeatedly been upheld since *Haslip*. The Alabama court further insists upon rejecting *Haslip*'s mandate that punitive and compensatory damages should bear a rational relationship. In a case remanded from this Court for review of a $500,000 punitive damages verdict, the Alabama court said, "Imposing . . . a relationship [between compensatory and punitive damages] would inevitably result in *injustice*, and we decline to impose it."[9] *Southern Life Ins. Co. v. Turner*, 586 So. 2d 854, 858 (Ala. 1991) (compensatory damages of $1,000). This was no 'slip of the pen.' The same view has been reiterated in other cases which rejected the requirement of a relationship between punitive and compensatory damages as *contrary* to justice.[10] Furthermore, within the past two years, the Alabama court has made clear its view

[9] The Alabama court once subscribed to the belief that "the amount awarded as damages must bear some reasonable relation to the injury sustained and even though there might be a small amount of actual damages to be awarded, the amount allowed as punitive damages should not be disproportionate thereto." *Robertson v. McCarley*, 259 Ala. 583, 67 So. 2d 814, 817 (1953). That view has long since been abandoned.

[10] *See Associates Financial Services Corp. v. Barbour*, 592 So. 2d 191, 199 (Ala. 1991) (punitive purpose would be thwarted if any predictable relationship was required); *General Motors Corp. v. Johnston*, 592 So. 2d 1054 (Ala. 1992) (holding that punitive damages need bear no relationship to actual damages).

that *no compensatory damages* need be awarded to support a substantial punitive damages verdict.[11]

In *Southen Life & Health v. Turner, supra*, the Alabama court on remand from this Court reconsidered and reaffirmed a punitive award 499 times greater than compensatory damages. Noting that the opinion ignored *Haslip*'s mandate for a relationship between compensatory and punitive damages, the court's senior member took the majority to task, stating, "the Court, on remand, clearly has not reconsidered the judgment and addressed an issue the Supreme Court of the United States considers relevant—the size of the punitive damages award when compared to the actual loss suffered." *Turner*, 586 So. 2d at 860 (Maddox, J., concurring in the result). On dissent from the court's denial of defendant's *Application for Stay*, he openly commented that the court's post-verdict review procedure was not working:

> It is frequently said that persons should rely more on what a person *does* than upon what he *says*. What this Court has *done*, especially since *Haslip* was released, shows that the procedure found in *Haslip* to be meaningful and adequate may not be.
>
> * * * * *
>
> I think that the Supreme Court of the United States may have been led to believe that a type of "independent review" was occurring, when in fact it was not, and is not.

Southern Life & Health Ins. Co. v. Turner, No. 88-1289, slip op. 2, 4 (Ala. Sept. 11, 1991) (Maddox, J., dissenting).

Instead of embracing the mandate for a rational relationship, the Alabama court has adopted a self-congratulatory interpretation of *Haslip* as blanket approval of its post-verdict review process. The repeated affirmance of ever-larger punitive awards, however, belies the fact that the model is little more than 'window dress-

[11] *See Shoals Ford v. McKinney*, 605 So. 2d 1197 (Ala. 1992); *Caterpillar v. Hightower*, 605 So. 2d 1193 (Ala. 1992); *First Bank of Boaz v. Fielder*, 590 So. 2d 893 (Ala. 1991).

ing' for a practice that actually treats jury verdicts as sacrosanct.[12]

In *Principal Financial Group v. Thomas*, 585 So. 2d 816 (Ala. 1991), the Court upheld a $750,000 judgment for failure to pay a $1,000 disability insurance contract claim—a 750 to 1 ratio, even though defendant's contractual liability was not finally resolved until the jury decided the issue in favor of the plaintiff. The trial court first set aside the award on post-verdict review. On appeal, the Alabama Supreme Court reinstated the full award based upon the "presumption of correctness" and the court's articulation for the first time of a new legal rule to support the $1,000 compensatory award.[13]

In *Intercontinental Life Ins. Co. v. Lindblom*, 598 So. 2d 887 (Ala. 1992), the Alabama court, on remand in light of *Haslip*, reinstated a $1 million punitive award where compensatory damages were $12,400. In a concurring opinion, Alabama's senior justice again stated that "Post-*Haslip* reviews by this Court, including this one, indicate that the procedures, when actually applied are not adequate and meaningful." *Lindblom*, 598 So. 2d at 892 n.4.

In *Fraser v. Reynolds*, 588 So. 2d 488 (Ala. 1992), the Alabama court conducted no real *Haslip* analysis at all. *See Fraser*, 588 So. 2d at 453 (Maddox, J., dissenting). The case was tried twice, with the first jury awarding punitive damages of $30,000 and the second jury awarding $375,000. Despite a dissent which noted that such disparity between the awards suggested the higher award may not be fully necessary to accomplish society's goals, the Alabama court summarily affirmed without any post-verdict analysis of the amount. *Fraser*, 588 So. 2d at 455. *See also, Union Mortgage Co. v. Barlow*, 595 So. 2d 1335 (Ala. 1992) (Actual damages $6,000; punitive damages $6 million with no appellate analysis of excessiveness).

Alabama trial and appellate decisions over the past year reveal a state judiciary which has repeatedly failed to apply *Haslip*'s directives in a meaningful way. In sum, the Alabama scheme for post-verdict review as envisioned and approved by the Court in *Haslip* is not effective, even in the state whence it originated.

C. Legislative Solutions May Be an Impossibility

Amicus agrees it would be preferable if this problem were capable of being resolved on the state level by legislation, as Justice Scalia and other members of this Court have suggested.[14] Unfortunately it is not—at least not in Alabama. Justice Scalia's separate opinion in *Haslip* was premised on the assumption that Alabama and other "[s]tate legislatures . . . have the power to restrict or abolish the common-law practice of punitive damages." *Haslip*, 111 S.Ct. at 1054. He specifically referenced limitations in Florida and Virginia. While those statutes

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[12] *See*, for example, *Continental Eagle Corp. v. Mokrzycki*, —— So. 2d ——, 1992 WL 341848 at *5, wherein the Alabama court regarded itself as "*bound*" by a $100,000 punitive verdict due to the "presumption of correctness."

[13] Although it was undisputed that defendant's denial of the disability claim had nothing to do with the death of plaintiff's daughter from cancer, the Alabama court found justification for the $750,000 punitive award in part because plaintiff's daughter died of her disabling illness. Observing that "parents should not have to bury their children," the court's opinion suggests that the company's refusal to pay the claim at a time of profound grief for the mother served as partial justification for such punishment.

[14] *Haslip*, 111 S.Ct. at 1054 (Scalia, J., concurring specially). Justice O'Connor observed, ". . . state legislatures could establish fixed monetary limits for awards of punitive damages for particular kinds of conduct." *Haslip*, 111 S.Ct. at 1064 (O'Connor, J., dissenting). And in *Browning-Ferris*, Justice Brennan commented that Due Process is even "less indulgent" of awards made "without the benefit of a legislature's deliberation" than those that fall within statutory limits. *Browning-Ferris Ind. v. Kelco Disposal, Inc.*, 492 U.S. 257, 281 (1990) (Brennan, J., concurring). The question "whether due process acts as a check on undue jury discretion . . . in the absence of any express statutory limit" *assumes* the validity of legislative power to act in the realm of punitive damages. As noted in the text, that assumption may be incorrect. *See Haslip*, 111 S.Ct. at 1044 n.9.

have been judicially upheld, the Alabama Supreme Court has demonstrated a propensity to strike down every statute it has considered which would establish reasonable limitations on punitive damages. Other state courts likewise have declared certain statutory restrictions on the amount of damages invalid.

It does not take six, seven, and eight figure awards to punish defendants in most civil cases—which is what the 1987 Alabama Legislature indicated by unanimously passing several major revisions to the common law of punitive damages.

'As noted above, one of those changes removed the protected status of jury verdicts by abolishing the "presumption of correctness," thereby allowing the court to take an independent role in reviewing punitive damages awards. *See* ALA. CODE §§ 6-11-23, 6-11-24 (Cum. Supp. 1991). Despite being vested with broader power, the Alabama court invalidated the statute on "separation of powers" grounds (though neither party on appeal had raised a constitutional challenge to the statute). *See Armstrong v. Rogers's Outdoor Sports, Inc.*, 581 So. 2d 414 (Ala. 1991).

The Alabama court also has stricken a statute limiting noneconomic damages (including punitives) to $400,000 in medical malpractice cases, on grounds that it violated the right to jury trial. *Moore v. Mobile Infirmary Ass'n*, 592 So. 2d 156 (Ala. 1992); ALA. CODE § 6-5-544 (Cum. Supp. 1991). Likewise, it struck down a statute which allowed for periodic payment of "future damages" on right to jury trial grounds. *Clark v. Container Corp. of America*, 589 So. 2d 184 (Ala. 1991); ALA. CODE § 6-11-3 (Cum. Supp. 1991). The court presently is considering whether to strike down a statute which limits punitive damages to $250,000 (subject to certain statutory exceptions). *Alabama Power Co. v. Henderson*, No. 88-CV-992 (Tuscaloosa Co. Cir. Ct., August 1991), On Appeal (No. 1901875); ALA. CODE § 6-11-21 (Cum. Supp. 1991). The

main focus of the challenge is, again, the right to jury trial.

Such decisions would lead one to believe that Alabama's right to jury trial is the broadest in the nation, when in truth it is phrased in terms much narrower than the Seventh Amendment. *Compare* U.S. CONST. amend. VII *with* ALA. CONST. § 11. The Alabama court, however, takes a strong populist view of individual rights in relation to legislative power in the realm of common law tort limitations. Thus, for states like Alabama, a legislative solution to the problem of excessive punitive damages may be an impossibility.

II. THE COURT MUST ARTICULATE AN ASCERTAINABLE STANDARD

A. The Root Problem Is Still the Lack of Jury Standards

Regardless of what post-verdict review standards are imposed, until the root problem is solved, the situation will not improve. There is no rational justification for a post-verdict review process which attaches extraordinary deference to punitive damages verdicts unless they are the product of sufficiently guided and informed juries. Twenty years ago, when punitive damages were infrequent and insubstantial, basic jury instructions on punitive damages may have been acceptable. In the present environment they are not. If society were presented with a trend of increasing highway injuries, instead of disparate punitive damages awards, it would not address the problem by building more hospitals. Road improvements, speed limits, and improved training would be the first order of business. Likewise, the problem of irrational punitive damages should be addressed on the 'front end' before imposing additional post-verdict review measures.

Informing a jury that the imposition of damages is entirely discretionary, and asking them to simply take

into account the "character and degree of the wrong," provides no meaningful guidance.[15] It invites juries to return verdicts based upon how they "feel" in response to a defendant's misconduct. *Haslip*, 111 S.Ct. at 1057. (O'Connor, J., dissenting). When harm has resulted that cannot be rectified with money, there is an added element of frustration which leads to irrational results. Large defendants, perceived to have substantial resources, are inevitably targets for vengeance and frustrated fury.

Such jury charges fit very nicely into skilled plaintiffs' counsel's "send a message" closing argument—a formula that inevitably leads to substantial punitive damages having no relationship to the actual harm. Counsel first exhorts the jury to determine an amount sufficient to punish and deter *this* defendant, which, if the defendant is big, must be substantial. Counsel then exhorts the jury to determine an amount adequate to deter others like this defendant from committing similar wrongs. Again, this sum must be so substantial as to "reach the corporate offices" of other businesses through the news media. Then add the two. Such a formula affords the jury no rational guidance and produces verdicts that bear no understandable relationship to compensatory damages. As Justice Brennan noted, "guidance like this is scarcely better than no guidance at all." *Browning-Ferris*, 492 U.S. 257, 280 (Brennan, J., concurring).

Unfortunately such verdicts, prominently reported in the media and sanctioned by the courts, inevitably multiply. In states like Alabama and West Virginia they have gotten out of hand. Any modern criminal procedure which licensed juries to use their discretion to 'send a message' by their sentence would be rejected as barbaric.[16] That, however, is the *status quo* in civil cass in Alabama where juries are told, in the heat of the moment, that the

[15] *See Alabama Pattern Jury Instructions* 11.03 (1974).

[16] *See Stringer v. Mississippi*, 112 S.Ct. 1130 (1992) (Recognizing the due process requirement of adequate jury instructions during the sentencing phase of a criminal prosecution.)

amount of punishment is entirely discretionary. Such instructions are perfectly tailored to a 'more is better' argument. Policy decisions of such magnitude should occur in a more rational setting, not on an arbitrary basis. In the absence of statutory limits, they must at least be the result of instructions which better define the parameters within which a jury may act so as to reduce the risk of arbitrary results. The necessity for such instructions is doubly important in states like Alabama, where jury verdicts are accorded extraordinary deference.

As the Alabama court acknowledged before *Haslip*, there presently is no "yardstick" for the jury to use in measuring the amount of punitive damages that should be awarded.[17] *Green Oil v. Hornsby*, 539 So. 2d 218, 222 (Ala. 1989); *Rideout's-Brown Service, Inc. v. Holloway*, 397 So. 2d 125, 127 (Ala. 1981) (Jones, J., concurring). Such a yardstick should be calibrated to tell the jury, for example, how the alleged misconduct compares to other types of fault in the range of misconduct. Neither are juries told that punitive damages must bear a rational relationship to the actual harm, as measured by compensatory damages. As Justice O'Connor noted in *Haslip*, juries in Alabama are not even instructed on the "Green Oil" factors by which their verdict will later be evaluated.[18] They are blind to the indicia of fairness, guided only by their instinctive reaction toward the defendant.

Due process imposes a rule of law upon the human impulse towards vengeance. It requires at a minimum an

[17] Justice O'Connor in *Haslip* noted that the Alabama Supreme Court itself acknowledged that its jury instruction procedures give "unguided discretion" and in no way dictate a rational jury verdict. (citing *Green Oil*, 539 So. 2d at 222; *Rideout's-Brown Service, Inc. v. Holloway*, 397 So. 2d 125, 127-28 (Ala. 1981)). "Thus [it] . . . recognizes that its common law procedures produce irrational results, yet insists on deferring to these results." *Haslip*, 111 S.Ct. at 1063 (O'Connor, J., dissenting).

[18] The *Green Oil* factors in the Alabama model are set forth *supra* in footnote 2.

objective damages 'range,' a maximum ratio of punitive to actual damages, or both. As Alabama's experience teaches, no progress will be made toward that end until and unless this Court takes the lead in mandating more meaningful jury instructions.

B. Appellate Courts Need More Ascertainable Guidelines

In approving the Alabama Model for post-verdict review in *Haslip*, this Court concluded that a punitive award reflecting a multiple of four times the compensatory damages was "close to the line" of Due Process prohibition. Unfortunately, state courts have been unable to discern the contours of that line. Again, we will confine our discussion to Alabama.

As stated above, less than six months after *Haslip* was announced, the Alabama court rejected any notion that punitive and compensatory damages must bear a rational relationship, on grounds that such a requirement "would inevitably result in injustice." *Southern Life & Health Ins. Co. v. Turner*, 586 So. 2d 854, 858 (Ala. 1986). That view has since been reiterated. *See Associates Financial Services Corp. v. Barbour*, 592 So. 2d at 199; *General Motors Corp. v. Johnston*, 592 So. 2d at 1063. *But see, Intercontinental Life Ins. Co. v. Lindblom*, 598 So. 2d 886, 891 (Ala. 1992) (citing a "rational relationship" between $12,400 compensatory and $1 million punitive damages).

Eschewing such a relationship, the court relies exclusively upon its *Green Oil* test in evaluating jury verdicts under a "presumption of correctness." A review of Alabama cases wherein the model was utilized, however, reveals it is largely form without substance. Massive punitive damages are repeatedly affirmed, without regard to their relationship to the compensatory award. At its core, the Alabama model is an articulation of the considerations behind the traditional standard of whether a verdict "shocks the judicial conscience." *See Green Oil,*

539 So. 2d 218 (Ala. 1989); *Hammond v. City of Gadsden*, 493 So. 2d 1374 (Ala. 1986); Carr, *Punitive Damages and Post-Verdict Procedures: Where Are We Now and Where Do We Go From Here?* 51 ALA. LAW. 90 (March, 1990).

As Justice Scalia has noted, a "shock the conscience" standard is really no standard at all.[19] It results in "jury-like verdicts" by appellate courts based upon their own subjective notions rather than objective standards. *Haslip*, 111 S.Ct. at 1046 (Scalia, J., concurring). By endorsing the Alabama model, *Haslip* merely transferred subjective discretion to the reviewing courts. Requiring a reasonable relationship between actual and punitive damages requires further articulation, because *any* ratio of punitive damages can and has been found to be reasonable.

Measured against appellate decisions only 10 years ago, it now takes a much larger jolt to shock the conscience of judges in jurisdictions like Alabama. Members of the trial bench and bar have become desensitized, like persons who frequent horror movies. Alabama decisions over the past 20 years reflect an increase in punitive damages awards that vastly exceeds the rate of economic growth. The aggregate of such awards is truly astounding, as shown in the Appendix tables.

The mere incantation of a subjective post-verdict standard is no substitute for meaningful enforcement of a defendant's right to fair punishment. Alabama, however, is not alone in failing to apply the principles outlined in *Haslip* in a meaningful way. The courts need more ascertainable guidelines for determining which punitive damages awards satisfy Due Process as compared to those which should be treated as suspect or facially excessive.

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[19] *See Browning-Ferris Ind., Inc. v. Kelco Disposal, Inc.*, Official Transcript of Proceedings Before The Supreme Court of the United States, at 24-27.

C. Amicus Curiae's Proposal for More Definite Standards

If any uniformity is to be achieved, this Court must articulate a more discernable standard for determining what measure of punitive damages "cross[es] the line." In most cases, a 3-to-1 ratio suggests itself as a reasonable standard, as evidenced by accepted statutory schemes which utilize that formula throughout the nation. A multiple of four is "close to the line" but not unconstitutional, as suggested by *Haslip*. Any multiple greater than five should be judicially regarded as suspect (if not facially excessive) where it exceeds the 'profit removal' and 'cost of litigation' criteria in the Alabama model.[20]

Moreover, this Court should recognize that a blanket "presumption of correctness" effectively eliminates an important layer of Due Process protection—especially in cases where juries are not given sufficiently meaningful instructions. A judicial policy of maximum deference, mixed with a lack of jury standards, is a recipe for disaster. Thus, in jurisdictions where verdicts are buttressed by extraordinary deference, as in Alabama, Due Process requires that juries be furnished instructions which establish more meaningful parameters and guidelines so as to avoid arbitrary and irrational punishments.

CONCLUSION

The judgment of the Supreme Court of Appeals of West Virginia should be reversed.

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[20] *See* footnote 2, *supra*.

APPENDICES

APPENDIX A

HISTORICAL COMPARISON OF WRONGFUL DEATH AWARDS UPHELD BY THE ALABAMA SUPREME COURT

Year	Case Name	Original Verdict Amount	1988 Equivalent Dollars
1892	*Richmond & D.R.R. v. Freeman*, 97 Ala. 289, 11 So. 800	8,000.00	$149,941.60
1900	*Lousville & N.R.R. v. Tegner*, 125 Ala. 593, 28 So. 510	7,500.00	145,866.75
1917	*Mobile Elec. Co. v. Fritz*, 200 Ala. 692, 77 So. 235	17,500.00	148,537.50
1918	*Louisville 7 N.R.R. v. Phillips*, 202 Ala. 502, 80 So. 790	15,000.00	127,116.00
1921	*Alabama Power Co. v. Talmadge*, 207 Ala. 86, 93 So. 548	17,500.00	106,354.50
1936	*Southern Ry. v. Sherrill*, 232 Ala. 184, 167 So. 731	10,000.00*	84,942.00
1947	*Mobile v. Reeves*, 249 Ala. 488, 31 So. 2d 688	20,000.00	118,732.00
1954	*Alabama Power Co. v. Irwin*, 260 Ala. 673, 72 So. 2d 300	15,000.00	65,061.00
1958	*Airheart v. Green*, 267 Ala. 689, 104 So. 2d 687	75,000.00*	307,882.50
1958	*Liberty Nat'l Life Ins. Co. v. Weldon*, 267 Ala. 171, 100 So. 2d 696	75,000.00	307,882.50
1973	*Boise Cascade Corp. v. Lee*, 291 Ala. 666, 286 So. 2d 836	175,000.00	479,465.00
1973	*General Tel. Co. v. Cornish*, 291 Ala. 293, 280 So. 2d 541	75,000.00	205,485.00
1973	*Magnusson v. Swan*, 291 Ala. 151, 279 So. 2d 422	50,000.00	136,999.00

* Cases and figures through 1988 from Nettles and Latta, *Alabama's Wrongful Death Statute: A Problematic Existence*, 40 ALA. L. REV. 475, 526 Table I (1989).

Year	Case Name	Original Verdict Amount	1988 Equivalent Dollars
1976	*Dees v. Gilley,* 339 So. 2d 1000	50,000.00	106,455.00
1982	*Estes Health Care Centers, Inc. v. Bannerman,* 411 So. 2d 109	500,000.00	625,400.00
1982	*Lane v. Otts,* 412 So. 2d 254	500,000.00	625,400.00
1984	*Deaton, Inc. v. Burroughs,* 456 So. 2d 771	835,000.00	954,572.00
1985	*General Motors Corp. v. Edwards,* 482 So. 2d 1176	1,600,000.00*	1,752,000.00
1986	*Alabama Power Co. v. Cantrell,* 507 So. 2d 1295	1,000,000.00	1,056,800.00
1986	*Black Belt Wood Co. v. Sessions,* 514 So. 2d 1249	3,500,000.00	3,698,800.00
1988	*Alabama Power Co. v. Capps,* 519 So. 2d 1328	500,000.00	500,000.00
1988	*Industrial Chem. & Fiberglass Co. v. Chandler,* 547 So. 2d 812	2,500,000.00*	2,500,000.00
1989	*Olympia Spa v. Johnson,* 547 So. 2d 80	3,000,000.00	
1989	*Turner v. Alabama Power Co.,* 575 So. 2d 551	3,500,000.00	
1990	*Lee v. The Children's Hospital of Alabama, Dr. Colby Atkins, et al.,* 603 So. 2d 937	6,875,000.00	
1992	*General Motors Corp. v. Johnston,* 592 So. 2d 1054	7,500,000.00	

APPENDIX B

Large Punitive Damages Verdicts and decisions in Alabama 1982-1992*

1992

(Non-Wrongful Death)

Mobile Asbestos Cases — 32,200,000
13 Asbestos cases consolidated for trial. Judgment against two asbestos manufacturers whose products were used at Mobile Shipyards (Keene Corp. and Owens-Illinois). 10 living and 3 deceased had asbestosis or lung cancer or both. Punitive damages ranging from $1,500,000 to $3,000,000 and compensatory damages ranging from $50,000 to $900,000. New trial ordered (785 F.Supp. 1448 (S.D. Ala. 1992)).

Patricia A. Cole v. Southern Valley Trust, et al. — 25,000,000
$1 million compensatory and $25 million punitive damages in insurance fraud case. Agent sold product as medical insurance policy which was actually unfunded trust. Plaintiff had radical mastectomy and company failed to pay for breast reconstruction and dropped her coverage. No. 90-CV-2573 (U.S. District Court N.D. Ala., March 2, 1992).

Enstar Group v. Richard Grassgreen — 20,000,000
Fraud suit. No. 90-CV-2234-G (Montgomery Co. Cir. Ct., April 9, 1992).

Maggie Lou Harrington v. Independent Life and Accident Ins. Co. — 6,230,000
Plaintiff alleged that insurer committed fraud by continuing to collect premiums on policy for ten years after the date that plaintiff became eligible for medicare where policy terminated on that date. No. 91-CV-113 (Marion Co. Cir. Ct., December 12, 1992).

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* The above list is the product of research by several members of the Alabama Trial bar, there being no official record or database containing such information. It appeared in earlier forms as Appendices to the briefs of petitioner and *Amicus* Alabama Defense Lawyers Association in *Pacific Mutual Life Ins. Co. v. Haslip, supra,* and *amicus* Alabama Defense Lawyers Association in *Healthamerica Inc. v. Mention,* Case No. 89-939, *cert. denied,* 493 U.S. 1093 (1989).

John Richards v. Michelin Tire Corporation — 5,000,000
Jury awarded $5 million in punitive damages and $161,475 in compensatory damages. This was a products liability case wherein plaintiffs claimed defendant failed to warn not to mount and inflate a 16 in. tire on a 16½ inch wheel. (786 F.Supp. 959 (S.D. Ala. 1992)).

Blakely Corp. et al. v. Murphy Oil Co. USA, Inc., — 4,600,000
Total verdict of $8 million, including 4.6 million punitive award for breach of contract and trespass arising out of environmental pollution of land. No. CA-89-0767-B (U.S. District Court S.D. Ala.) Notice of appeal docketed January 11, 1993.

Ira Gore v. BMW of North America and German Auto, Inc. — 4,000,000
$4,000 award of compensatory damages against all defendants and a $4 million award of punitives against BMW based on fraud. Defendants sold as new a car on which paint damage had been repaired. No. 90-CV-9658 (Jefferson Co. Cir. Ct., June 8, 1992) On Appeal Nos. 1920324 and 1920325.

Callaway v. Life & Health Ins. Co. — 3,000,000
Total verdict of $6 million for alleged fraud by group health insurer. No. 89-CV-0052 (Crenshaw Co. Cir. Ct., March 13, 1992).

Fred Cope v. United Ins. Co. of America — 3,000,000
Total verdict of $4 million. No. 90-CV-73 (Bullock Co. Cir. Ct., November 13, 1992).

Lindblom v. Intercontinental Life Ins. Co. — 3,000,000
Bad faith & fraud involving $10,000 death benefit. Affirmed conditional upon remittitur to $1 million. (598 So.2d 886 (Ala. 1992)).

B.W. Carter v. Bituminous Casualty Corp. — 2,500,000
Commercial insurance disputes over proper loading of a log truck and policy exclusions. No. 90-CV-222 (Marion Co. Cir. Ct., December 12, 1992).

Milton and Joanne Core v. H. & R Block — 2,000,000
$2 million in punitive damages and $254.50 in compensatory damages over fraudulent mishandling of tax refund. Post trial motions pending. No. 91-CV-43 (Chambers Co. Cir. Ct., September, 1992).

Todd v. United Steelworkers of America — 2,000,000
Fraudulent misrepresentation arising from insurer's representation that under HO's policy, the insurer would either rebuild or replace house or pay insureds $38,000. (Etowah Co. Cir. Ct., March 20, 1992).

Stewart v. ATEC Assoc., Russell Grimes, et al. — 2,000,000
$8.25 million verdict; $2 million past damages; $2.25 million future damages and $2 million punitive damages. Co-employee suit where plaintiff claimed he developed leukemia from Benzine vapors. No. 91-CV-1846 (Madison Co. Cir. Ct., October 23, 1992).

Foster v. Life Ins. Co. of Georgia — 1,250,000
Insurance company sold Foster, a 71 year-old woman who could not read and write, a Medicare supplement policy, premiums paid for three years. Foster made a claim which was denied because she did not have underlying Medicare coverage. (Mobile Co. Cir. Ct., November 4, 1992).

Lawrence Lowery v. Dr. Humphrey Osmond, et al. — 1,000,000
$1 million in punitive damages against three Bryce Hospital employees over allegedly improper release of violent patient who attacked and severely injured his sister four months after release. No. 85-647 (Tuscaloosa Co. Cir. Ct., February 28, 1992) Appeal pending.

Bernice White v. First Capitol Mortg. Co., et al. — 500,000
Plaintiff alleged fraud and bad faith involving credit life insurance. (Tallapoosa Co. Cir. Ct., August 28, 1992.)

Booth, Inc. v. Britamco Underwriting, Inc. — 500,000
Verdict against law firm for conflict of interest in insurance defense setting. No. 91-CV-346 (Tuscaloosa Co. Cir. Ct., November 12, 1992).

Delchamps v. Lela Morgan — 500,000
Mobile County case involving claim for malicious prosecution arising from alleged theft of pack of cigarettes. Punitive award reversed, remanded for new trial. (601 So.2d 442 (Ala. 1992)).

Ex parte Martin — 300,000
Mandamus petition related to fraudulent representation regarding sale of medical insurance. Plaintiffs settled with several defendants (for $225,000). Jury returned $300,000 verdict against remaining defendants. (598 So.2d 1381 (Ala. 1992)).

Smith v. States General Life Ins. Co. 250,000
Plaintiff sued insurer for fraud in sale of policy of medical insurance. $600 compensatory; $250,000 punitive. (592 So.2d 1021 (Ala. 1992)).

(Wrongful Death)

Little v. Fontaine Trucking Company 25,000,000
Wrongful death involving alleged failure to install backup alarms (Greene Co. Cir. Ct., November 6, 1992) Motion for new trial pending, January 4, 1993.

General Motors Corp. v. Johnson 15,000,000
Plaintiff alleged that pickup truck was defective under Alabama Extended Manufacturer's Liability Doctrine. ($75,000 compensatory $15,000,000, punitive remitted to $7,500,000) (592 So. 2d 1054 (Ala. 1992)).

Charles Lee and Glendon T. Lee, individually and as natural parents and natural guardian of Charles R. Lee, deceased v. The Children's Hospital of Alabama, Dr. Colby Atkins, et al. 6,875,000
Medical malpractice suit alleging wrongful death of four-year-old child. Affirmed (603 So.2d 937 (Ala. 1992)).

Annie Harris, et al. v. Sears Roebuck Company, et al. 4,000,000
$4 million for wrongful death of tennage girl where relative took out electric hot water heater and replaced with old, used gas water heater which he did not vent. Gas heater was several years old and did not have instructions for proper venting. One co-defendant pro tantoed out for $1 million and component part manufacturer pro tantoed out for undisclosed amount. No. 90-CV-35 (Lowndes Co. Cir. Ct., February 27, 1992) Appeal pending.

Penny Daily v. Mazda 1,600,000
Wrongful death action out of minor's death after a door latch on a Mazda automobile failed. No. 90-CV-574 (Colbert Co. Cir. Ct., April, 1992).

Marinelli & Madonia v. Volkswagen 1,566,666
Jurors awarded the parents of two teenagers $783,333 apiece in a lawsuit stemming from the fatal 1989 wreck of a volkswagen vehicle, "The Thing". The families claimed Volkswagen was negligent because it had never tested the vehicle for "rollover stability" before selling the Thing in the U.S. No. 89-CV-3301 (Jefferson Co. Cir. Ct.).

Estate of Robert Dorough v. City of Hoover 1,500,000
$1.5 million for wrongful death of intoxicated driver traveling the wrong way on I-459 who was fatally shot by police officer attempting to stop him. Additional $5,500 awarded for violation of constitutional rights. Deceased man had been drinking at local tavern nearly all day, at one time was sleeping on bar, and his blood alcohol content was three times the legal limit for intoxication. No. 91-CV-557 (U.S. District Court N.D. Ala., January 17, 1992).

1991

(Non-Wrongful Death)

Steiner Marine v. RCA and General Electric 50,000,000
$50,000,000 in punitive damages and $1.3 million in compensatory damages for breach of contract and fraud invloving shipbuilding contract. No. 88-CV-0558-RV (U.S. District Court S.D. Ala., March 4, 1991).

Robert and Mattie Person, et al. v. Union Mortgage Co. & Charles Harper. 45,000,000
Five plaintiffs awarded $45,000,000 alleging that they had been defrauded on loans approved for repairs on their homes. Jury also returned $45,000,000 verdict against Harper, the contractor. (Lowndes Co. Cir. Ct., July 24, 1991).

Sheridan v. Northwestern Mutual Ins. Co. 25,000,000
Punitive award against insurer and agent for fraud, where agent had stolen approximately $9,000 in premiums and disappeared. Separate verdicts of $12.4 million in punitive damages against each defendant, which trial court combined. No. 89-CV-2505-PR (Montgomery Co. Cir. Ct., December, 1991). On appeal. No. 191110.

Boykin v. Trinity Ins. Co. 6,250,000
Punitive damages verdict for bad faith on uninsured motorist claims; settled post-trial. No. 90-CV-02 (Barbour Co. Cir. Ct.) Appealed November 7, 1991, settled before appeal date.

Willie Mae Barlow et al. v. Union Mortgage Co. 6,000,000
Lowdes Co. Cir. Ct. $150,000 compensatory damages and $6,000,000 punitive damages alleging fraud involving $2,000 home repair loan. Allegation of "hidden" finance charge. Verdict upheld by trial judge; Affirmed (595 So.2d 1335 (Ala. 1991)).

Toole v. Baxter Healthcare Corp. **$5,000,000 punitive damages against manufacturer of silicone breast implants remitted to $2 million. Trial court found that "pattern or practice" exception applied and declined to apply $250,000 punitive cap. (778 F.Supp. 1543 (M.D. Ala. 1991)).**	5,000,000
Southern Life & Health Ins. Co. v. Turner **Punitive damages for bad faith and fraud involving $1,000 death benefits. Remitted from $5 million to $500,000. Vacated and remanded to Alabama Supreme Court by U.S. Supreme Court. Settled after remand. (586 So.2d 854 (Ala. 1991)).**	5,000,000
James L. Hilley v. Allstate Insurance **Fraud count involving failure of insurance company to pay fire loss on home insured for less than $50,000. Affirmed (595 So.2d 873 (Ala. 1990)).**	2,000,000
Cahaba Land Associates, Inc., et al. v. Secor Bank **$3,300,000 award, including $1,270,000 in punitive damages, to company and four partners for bank's actions in real estate deal. No. 88-CV-4065 (Jefferson Co. Cir. Ct., October 1991).**	1,270,000
Roberts v. Federation of American Consumers and Travelers, et al. **Claim alleging fraudulent representation by an insurance company. $500,000 in compensatory damages and $1,000,000 in punitive damages. No. 89-CV-634 (Calhoun Co. Cir. Ct., September 13, 1991).**	1,000,000
Roy Crowell & Myrtle Crowell v. Reserve Nat. Ins. Co. & Phillip Bailey. **$25,000 compensatory damages and $1,000,000 punitive damages for alleged fraud involving supplemental health insurance policy issued to elderly couple. Insurance company determined that claims amounting to approximately $800 were related to pre-existing condition excluded from coverage. No. 90-CV-1863-PH (Montgomery Co. Cir. Ct., October 25, 1991) On appeal.**	1,000,000
H.L. Callahan v. Thomas W. Fulton, et al. **Jury verdict of $1,000,000 in punitive damages and $2,927,500.80 in compensatory damages for fraud in shareholder freeze out setting. No. 91-CV-1226-BLK (Mobile Co. Cir. Ct., November 12, 1991).**	1,000,000

Northington v. Alfa Ins. Co. **Total verdict of $850,000 against insurer for alleged bad faith failure to renew. (604 So.2d 758 (Ala. 1991)).**	750,000
Robert McDonald v. Continental Casualty Co. (CNA) **Tort of outrage for late payment of workmen's compensation benefits. Affirmed (567 So.2d 1208 (Ala. 1990)).**	750,000
Thomas v. Principal Mut. Ins. Co. **Bad faith failure to pay $1,000 death benefits. Punitive award was set aside by trial court on defendant's motion for J.N.O.V. Alabama Supreme Court reinstated and affirmed $750,000 punitive damage award (566 So.2d 735 (Ala. 1990)).**	750,000
Massachusetts Mutual Life Ins. Co. v. Collins **Fraud, conspiracy to defraud, outrage, and fraudulent representation arising from sale of an insurance policy. Affirmed (575 So.2d 1005 (Ala. 1990)).**	750,000
Lombus v. Mitchell Transport, Inc., et al. **Wrongful death. Remanded for *Hammond/Green Oil* review. (590 So.2d 192 (Ala. 1991)).**	600,000
Harris v. M & S Toyota, Inc. **Alleged fraud involving sale of car. Verdict affirmed (575 So.2d 74 (1991)).**	500,000
The Standard Plan v. Tucker **In special verdict accompanied by answers to interrogatories, jury found insurance agency guilty of negligence and awarded $1,083.19 in damages; also found against insurer on claim of breach of contract and bad faith failure to pay claim and awarded $500,000 in punitive damages. Affirmed (582 So.2d 1024 (Ala. 1991)).**	500,000
Brown v. United Companies Financial Corp. **$250,000 for emotional distress and $250,000 for fraud. (584 So.2d 470 (Ala. 1991)).**	500,000
Mease v. Southern Technical College **Compensatory damages of $10,000 and punitive damages of $450,000 against a trade school for misrepresenting the transferability of course credits. No. 90-CV-663 (Montgomery Co. Cir. Ct.).**	450,000

Fraser v. Reynolds 375,000
Fraud claim involving sale of apartment complex; actual damages of approximately $15,000. Affirmed (588 So.2d 448 (Ala. 1991)).

(Wrongful Death)

Bobby and Retha Allen v. Physicians' Weight Loss Centers of America, Inc. 15,000,000
Wrongful death case involving 23 year-old who died from an irregular heartbeat after losing 21 pounds in weight-loss program. No. 89-CV-1969 (Mobile Co. Cir. Ct., June 5, 1991).

Thomas Madden, father of Michelle Madden, deceased v. Magnolla Bay, Inc., d/b/a Family Planning Medical Center of Mobile and Dr. O.B. Evans. 10,000,000
Medical malpractice case involving death of 18-year-old college student after having a incomplete abortion. No. 87-CV-899 (Mobile Co. Cir. Ct., June 5, 1991) On appeal, May, 1992.

Turner v. Alabama Power Company 4,500,000
Wrongful death suit. $4.5 million verdict remitted to $3.5 million. (575 So.2d 551 (Ala. 1991)).

Mahid Jahandarfard, et al. v. Lomax Killough, et al. 2,500,000
Wrongful death. (Affirmed 578 So.2d 1041 (1991)).

Gina Garner, mother of Johnathon Garner, deceased v. City of Opp. 750,000
Wrongful death case involving 19-month old child killed in car accident which allegedly occurred because of an improperly maintained stop sign. No. 89-CV-103 (Covington Co. Cir. Ct., November 27, 1991). On appeal to Supreme Court.

William Thornton v. Yamaha Motor Co. Ltd., et al. 750,000
Wrongful death of a child whose Christmas present motorbike crashed. Affirmed (579 So.2d 619 (Ala. 1991).

1990

(Non-Wrongful Death)

Michael Braun & Ian Braun v. Soldier of Fortune 10,000,000
$10 million punitive damages and $400,000 compensatory damages, plus $2 million in compensatory to be shared by Michael Braun and Ian Braun. Judgment reduced by Judge Hobbs to $2.375 million but did not affect compensatory damages. (757 F.Supp. 1325 (M.D. Ala. 1990)).

Overstreet v. Insurance Company of North America, et al. 10,000,000
Alleged insurance fraud, $10,000,000 punitive damages award against agency, individuals dismissed. No. 86-CV-002312 (Mobile Co. Cir. Ct., June 8, 1990).

Annie B. Smith v. MBL Life Assurance Corp and Mutual Benefit Life Insurance Co. 4,500,000
$4,500,000 punitive damages and $250,000 compensatory damages in breach of contract, fraud and bad faith case on question of existence of life insurance policy. Punitive award set aside on J.N.O.V., affirmed at 589 So.2d 691 (Ala. 1991). No. 84-CV-3028 (Jefferson Co. Cir. Ct., June 1990).

Elliott v. Brunswick Corp. 3,000,000
$1.5 million compensatory damages and $3 million punitive damages awarded for injury when rotating propeller of boat motor struck and injured plaintiff. Reversed on appeal from N.D. Ala. (903 F.2d 1505 (11th Cir. 1990)).

Clarke v. Traffanstedt v. Estate of Thomas Holmes and Human Hospital-Muscle Shoals 2,500,000
Medical Malpractice against hospital and estate of deceased physician. Verdict includes $985,000 compensatory damages and $2.5 million punitive damages against hospital only. Alabama Supreme Court reversed and remanded as inconsistent. (597 So.2d 667 (Ala. 1990)).

Marvin Roberts v. National Security Insurance 2,000,000
Claim involving breach of contract and fraud. Contract count dismissed prior to trial. Settled post-trial. No. 87-CV-4063 (Jefferson Co. Cir. Ct., October 8, 1990).

Shelby King v. Pioneer Life Insurance Co. 2,000,000
Breach of contract and bad faith suit. $2,000,000 verdict includes approximately $23,000 compensatory damages and $1,977,000 punitive damages for breach of contract. No. 87-CV-152 (Escambia Co. Cir. Ct., July 31, 1990).

E & S Facilities, Inc., et al. v. Precision Chipper Corp., et al. 1,750,000
Alleged fraud in the procurement of products liability insurance. Verdict for $875,000 each against insurance agency and insurance broker/wholesaler. Affirmed by Alabama Supreme Court. (565 So.2d 54 (Ala. 1990)).

Bachus v. The Club 90, Inc. 1,700,000
Auto Accident in which plaintiff was severely injured in a head on collision with an intoxicated driver (Dram Shop Act case). Plaintiff's medical expenses were just over $150,000. (Mobile Co. Cir. Ct., September 27, 1990).

Pacifico v. Jackson 1,650,000
Jury award in a personal injury medical malpractice case reinstated. (562 So.2d 174 (Ala. 1990)).

Kitchen Foods, Inc. v. Arby's, Inc. et al. 1,500,000
Punitive damages awarded in connection with misrepresentations in sale of franchise No. 88-CV-0761-P-M (U.S. District Court S.D. Ala., June, 1990).

Carter v. Old American Ins. Co. 1,400,000
$1,400,000 punitive damages for bad faith nonpayment of health insurance claim. *See* 544 So. 2d 917 (Ala. 1989) wherein summary judgment for the insurer was reversed. 87-CV-6 (Lauderdale Co. Cir. Ct., April, 1990).

Burden v. Empire Fire & Marine Ins. Co. 1,000,000
Alleged bad faith for failing to settle uninsured motorist claim. $400,000 awarded for compensatory damages and $1,000,000 for punitive damages. Post-trial motions pending. No. 88-CV-244 (Lauderdale Co. Cir. Ct., March 2, 1990).

Tom Beatry, Jr. v. Ford-New Holland Tractor Co. 1,000,000
Verdict awarding $25,000 in compensatory damages and $1,000,000 in punitive damages in malicious prosecution suit. Reversed & rendered (602 So.2d 1198 (1992)).

Fuller v. Preferred Risk Life Ins. Co. 1,000,000
Alleged breach of contract and insurance fraud, $16,764.82 compensatory damages on breach of contract; $1,000,000 punitive damages and $1.00 compensatory damages on fraud count. Punitive damages remitted to $250,000 on Motion for JNOV/New Trial. Alabama Supreme Court reversed and reinstated full $1 million verdict. (577 So.2d 878 (Ala. 1990)).

Pacific Mutual Life Ins. Co. v. Haslip 1,000,000
Fraud by insurance agent who pocketed the premiums and allowed plaintiff's health insurance to lapse. Affirmed by the Supreme Court of the United States. (111 S.Ct. 1032 (1991)).

Braden v. Dorsey Motor Sales, Inc. 1,000,000
$1,000,000 punitive damages, $15,600 compensatory damages for alleged fraudulent misrepresentation by car dealer that a used car was "new." No. 89-CV-004 (Autauga Co. Cir. Ct., April 3, 1990).

Ramsey Health Care, Inc. v. Follmer 800,000
Alleged fraud. Affirmed by Alabama Supreme Court. (560 So.2d 746 (Ala. 1990)).

Green Tree Acceptance, Inc. v. Standridge 750,000
Fraud, outrage involving repossession of mobile home. Judgment on outrage claim reversed and remanded, remainder affirmed, 565 So.2d 36 (Ala. 1990)).

American Employers Ins. Co. v. Southern Seeding Services, Inc. 750,000
Verdict awarding $400,000 in compensatory damages and $750,000 in punitive damages. No. 87-CV-G-0294S (U.S. District Court N.D. Ala., February 22, 1990).

(Wrongful Death)

Wilburn v. Luxaire, et al. 50,000,000
$50,000,000 punitive damages, plus previous settlement of $11,500,000 for wrongful death of five-member family resulting from alleged negligence involving heating unit. No. 88-CV-147 *et seq.* (Mobile Co. Cir. Ct., April, 1990) Settled on appeal.

Burlington-Northern R.R. v. Whitt 15,000,000
Wanton misconduct involving railroad crossing accident. Remitted to $5,000,000 by Alabama Supreme Court. (575 So.2d 1011 (Ala. 1990)).

Betty Greens Ingram v. Anniston Medical Clinic 3,500,000
Medical Malpractice claim resulting in wrongful death. No. 86-CV-611 (Calhoun Co. Cir. Ct., August 11, 1990).

Sue Chumney as Administrator of the Estate of Christopher E. Long, deceased v. Flowers Hospital 3,000,000
Wrongful death of child. Settled post-trial. No. 87-CV-57 (Houston Co. Cir. Ct., 1990).

Tate v. P.P.G. Industries — 2,500,000
Punitive damages for wantonness in wrongful death case. (U.S. District Court S.D. Ala., February 19, 1990).

Montgomery Health Care Facility v. Ballard — 2,000,000
Wrongful death Trial court denied motion for remittitur. Affirmed (565 So.2d 221 (Ala. 1990).

Estate of Conley v. Flay-O-Rich — 2,000,000
Wrongful death of milkman whose delivery truck overturned due to alleged failure to maintain steering. No 87-CV-0073 (Jefferson Co. Cir. Ct., November 5, 1990).

Kumar v. Lewis — 875,000
Medical malpractice involving death of a child. Affirmed (561 So.2d 1082 (Ala. 1990)).

1989
(Non-Wrongful Death)

Sigafoose v. Babson Brothers Co. — 10,000,000
$10 million punitive damages for fraud involving $21,000 compensatory claim. Settled post trial. Appeal dismissed. (596 So.2d 56 (1989)).

Braswell v. Conagra — 9,100,000
Breach of contract and fraud, $4,050,000 in compensatory damages and $9,100,000 in punitive damages. No. 86-CV-00741-T-S (U.S. District Court M.D. Ala., November, 1989).

State Farm Auto. Ins. Co. v. Robbins — 5,000,000
$5 million punitive damages for bad faith and fraud involving $700 disability claim. Remitted to $500,000. Affirmed (541 So.2d 477 (Ala. 1989)).

United Serv. Auto Ass'n v. Wade — 3,500,000
$3.5 million non-jury punitive damages verdict for bad faith remitted to $2.5 million. Compensatory damages of $166,795 plus $21,962 on contract count. Affirmed (544 So.2d 906 (Ala. 1989)).

Joiner v. Intercontinental Life Insurance Co. — 3,012,400
Fraud concerning insurance policy. Plaintiff received $80,000 compensatory and $3 million punitive; reduced by Judge Hobbs to $960,000 punitive and $40,000 compensatory. No. 89-CV-H-879-S (U.S. District Court M.D. Ala).

Ford v. Colonial Mortgage Co.
Punitive damages for fraudulent breach of residential home loan commitment. No. 89-CV-010 (Russel Co. Cir. Ct., November 1989).

Land & Associates, Inc. v. Simmons — 2,500,000
Fraud involving $10,000 in life insurance proceeds. Affirmed (562 So.2d 140 (1989)).

Blackburn, et al. v. Altus Bank — 2,038,753
Alleged fraud. Two plaintiffs, $1,538,753 for one plaintiff, $500,000 for other plaintiff. No. 88-CV-2263 (Mobile Co. Cir. Ct., November 30, 1989). Appeal pending.

White, et al. v. Georgia Casualty Ins. Co. — 2,000,000
Bad faith action. Reversed and remanded by Alabama Supreme Court (582 So.2d 487 (Ala. 1991)).

HealthAmerica, et al. v. Menton — 1,800,000
Fraud claim involving $2,400 claim for medical benefits. Affirmed (551 So.2d 235 (Ala. 1989)).

Phillips v. United American Ins. Co. — 1,800,000
Bad Faith and fraud involving $264 unpaid balance on medical claim. Settled post-trial. No. 87-CV-132JSS (June 2, 1989).

Barclay International v. First Ala Bank — 1,800,000
Baldwin County banking case concerning letter of credit issued to plaintiff but called upon in full by First Ala. Bank; First Ala. Bank was awarded $1.8 million in counterclaim. Reversed and remanded (557 So.2d 1201 (1989)).

Brenda Scroggins v. Averbuch Enterprises, Inc. — 1,700,000
Plaintiff paralyzed from gunshot; failure to provide protection in apartment complex. No. 89-CV-2152-P (Madison Co. Cir. Ct.).

Turner v. Deutz-Allis Credit Corporation — 1,609,500
Settled post-trial. No. 85-CV-043 (Barbour Co. Cir. Ct., October 9, 1989).

Terry v. John Carner and Leisure American, Inc. — 1,500,000
Fraud claim involving $5,500 actual damages. Settled prior to appeal. No. 85-CV-6777 (Jefferson Co. Cir. Ct., November 1, 1989).

State Farm Mutual Automobile Ins. Co. v. Hollis, Adm. Bad faith falure to settle lawsuit and wanton failure to file supersedeas bond. Reversed and remanded for new trial. (516 So.2d 576 (Ala. 1987)). Affirmed after verdict in second trial. (554 So.2d 387 (Ala. 1989)). — 1,500,000

Porter v. Hook — 1,300,000
Action for breach of written contracts. Breach of unwritten joint venture agreement and fraud against cable television owner. Remitted to $300,000 by trial court. Full verdict reinstated by Supreme Court of Alabama. (554 So.2d 382 (Ala. 1989)).

Carlis v. Ft. Deposit Motor Co., et al. — 1,000,000
Fraud involving sale of credit life insurance; approximately $1,000 compensatory damages, $1,000,000 remitted to $250,000. No. 87-CV-30 (Macon Co. Cir. Ct., April 19, 1989)).

United American Ins. Co. v. Brumley — 1,000,000
Marion County Bad faith involving compensatory damages of $5,000. Affirmed (542 So.2d 1231 (Ala. 1989)).

Alabama Power Co. v. Foster — 1,000,000
Shipyard worker injured when boat mast contacted overhead power lines. (555 So.2d 174 (Ala. 1989)).

Battles Entertainment, Inc. v. First Federal Savings and Loan Assoc. of Russell County, et al. Fraud in connection with a sale of real estate. Settled post-trial. No. 88-CV-083 (Lee Co. Cir. Ct., April 20, 1989). — 800,000

Vintage Enterprises v. Jaye — 500,000
Tallapoosa County $500,000 punitive damages and $20,000 compensatory, relating to sale, order, delivery of mobile home, fraud, wantonness, negligence, warranty and Magnuson-Moss theories. Affirmed (547 So.2d 1169 (Ala. 1989)).

Watson, Watson & Rutland v. Rosser Fabrap Int'l — 500,000
Intentional interference with business relationship, No. 88-CV-H-1292-N (U.S. District Court M.D. Ala.).

Hargrove v. Cantrell — 127,717
$127,717 punitive damages, $23,134 compensatory damages for odometer rollback. Affirmed (547 So.2d 488 (Ala. 1989)).

Green Oil Co. v. Hornsby — 150,000
$150,000 punitive damages, $14,704.06 compensatory damages, for fraud. Punitive damages remitted to $25,000. Affirmed (539 So.2d 218 (Ala. 1989)).

(Wrongful Death)

Thornton v. Knollwood Park Hospital — $5,000,000
Wrongful death; failure to diagnose baby's spinal meningitis. No. 85-CV-1275, (Mobile Co. Cir. Ct., 1989), settled on Appeal.

Olympia Spa v. Johnson — 3,000,000
Mobile County wrongful death involving steam room scalding. Affirmed (547 So.2d 80 (Ala. 1989)).

Clardy v. Sanders — 2,750,000
Wrongful Death. Affirmed (551 So.2d 1057 (Ala. 1989)).

Proctor & Gamble Co. v. Staples — 2,750,000
Wrongful death, Reversed on appeal. Settled thereafter. (551 So.2d 949 (Ala. 1989)).

Pettus, Estate of v. Vari-Care — 2,500,000
Wrongful death. No. 86-CV-196 (Mobile Co. Cir. Ct., June 20, 1989).

Stovall v. First American Health Care, Inc. — 2,000,000
Wrongful death involving alleged substandard medical care at a nursing home. No. 87-CV-173 (Montgomery Co. Cir. Ct., May 1989).

Beyer v. Beech Aircraft Corp. — 1,500,000
No. CV-81-2120 (Jefferson Co. Cir. Ct., 1989).

Shelby County v. Bailey — 1,000,000
Jefferson County Cir. Ct. Wrongful death $1,000,000. Affirmed (545 So.2d 743 (Ala. 1989)).

Central Alabama Electric Corp. v. Tapley — 1,000,000
Dump truck bed contacted power line. Affirmed (546 So.2d 371 (Ala. 1989)).

Shelby County v. Bailey — 1,000,000
Jefferson County Wrongful death—$500,000 each for two deaths. Affirmed (545 So.2d 743 (Ala. 1989)).

Mallory v. Hobbs Trailers 500,000
Jefferson County Wrongful death. Trial court granted defendant's motion for J.N.O.V. Verdict reinstated by Supreme Court of Alabama. (554 So.2d 966 (Ala. 1989)).

1988

(Non-Wrongful Death

Joshua Medders, a minor, et al. v. Darlene Forsythe Harris; Dr. Gerald Woodruff Medical malpractice. $6.5 million verdict against Harris only. No judgment against Dr. Woodruff. No. 88-CV-364 (Calhoun Co. Cir. Ct.) 6,500,000

Walls v. Colonial Mortgage Co. 1,700,000
Fraud involving breach of residential home loan commitment; compensatory damages of $2,500 or less. Settled pending appeal, (companion case to *Ford v. Colonial Mortgage*) (No. 87-CV-194 (Russell Co. Cir. Ct., 1988).

Trawick v. Michaels of Oregon Co. 1,000,000
Products liability involving rifle swivel. Total verdict $3.9 million, No. 88-CSV-C-413N (U.S. District Court M.D. Ala., December 21, 1998) (Settled pending appeal.

Carner, et al. v. Commercial Union Ins., Co., et al. 811,804
Breach of contract and bad faith. No. 82-CV-3504 (Jefferson Co. Cir. Ct., 1988).

Isbell v. Thompson-Hayward Chemical Co., et al. 675,000
No. 88-CV-162 (Jefferson Co. Cir. Ct.).
Adams v. The City of Bessemer, et al.
No. 88-CV-222 (Jefferson Co. Cir. Ct.).
Trammell v. Bessemer Water Service, et al.
87-CV-627 (Jefferson Co. Cir. Ct.).
Verdict $746,000 ($675,000 punitive damages) chemicals in water service.

Achord v. Mormar Incorporated 500,000
Products liability suit. Verdict of $863,625 includes $500,000 punitive damages. No. 87-CV-D-0824-N (United States District Court M.D. Ala., September 6, 1988).

Walmart Stores, Inc. v. Jones 200,000
False imprisonment. Affirmed (533 So.2d 551 (Ala. 1988)).

(Wrongful Death)

Helen Johnston as Administratix of the Estate of Bart Griffin and Ford Lewis v. General Motors Corp. 15,000,000 7,500,000
No. 88-CV-117 (Marengo Co. Cir. Ct.).

Industrial Chemical & Fiberglass v. Chandler 3,750,000
Jefferson County $3,750,000 punitive damages—$2.5 million for wrongful death and $1.25 million for breach of warranty. Affirmed (547 So.2d 812 (Ala. 1988)).

Heathcoat v. Mitchell Potts, et al. 3,000,000
Wrongful death. No. 85-CV-7805, 85-CV-7288 (U.S. District Court N.D. Ala. 1988).

Williams v. Rust International 1,000,000
Wrongful death, 82-CV-174 (Jefferson Co. Cir. Ct., 1988).

Treadwell Ford, Inc. v. Campbell 1,000,000
Mobile County wrongful death involving a defect in the accelerator of a pickup truck. Affirmed by Alabama Supreme Court (465 So.2d 312 (Ala. 1986)). Appeal dismissed by U.S. Supreme Court (486 U.S. 1028 (1988)).

Alabama Power Co. v. Cantrell 1,000,000
St. Clair County Wrongful death involving antenna contacting uninsulated power line. Affirmed by Alabama Supreme Court (507 So.2d 1295 (Ala. 1986)), Appeal dismissed by U.S. Supreme Court (486 U.S. 1028 (1988)).

Alabama Power Co. v. Courtney 750,000
Chilton County auto accident. Affirmed (539 So.2d 170 (Ala. 1988)).

Consolidated Freightways v. Pacheaco-Rivera 525,000
Wrongful death auto accident. (524 So.2d 346 (Ala. 1988)).

Alabama Farm Bureau v. Hixon 500,000
Montgomery County. Reversed on appeal (533 So.2d 518 (Ala. 1988)).

Alabama Power Co. v. Capps 500,000
Butler County Wrongful death involving dump truck contacting overhead power line (only simple negligence alleged/proved). Affirmed (519 So.2d 1328 (Ala. 1988)).

1987

(Non-Wrongful Death)

Ard v. South Baldwin Hospital — 5,500,000
Medical malpractice. Brain damaged child. No. 87-CV-303 (Baldwin Co. Cir. Ct.).

Estate of Jackson v. Phillips Petroleum Co. — 5,100,000 / 2,500,000
Reduced punitive damages from $5,041,694.04 to $300,000 in one case, and from $2,519,439.85 to $150,000 in another. Claim for conversion, intentional interference with contractual relations and wrongful exercise of lien rights. New trial granted on refusal to remit punitive damages. (676 F.Supp. 1142 (S.D. Ala. 1987)).

Super Valu Stores, Inc. v. Peterson — 5,000,000
Breach of contract and fraud in employment relationship. Affirmed (506 So.2d 317 (Ala. 1987)).

Aetna Life Ins. Co. v. Lavoie — 3,500,000
(Mobile County) $3 million punitive damages for bad faith refusal to pay $1,650 medical claim. Affirmed by Alabama Supreme Court, then vacated on appeal to U.S. Supreme Court and thereafter remitted to $500,000 by Alabama Supreme Court and affirmed. (505 So.2d 1050 (Ala. 1987)).

Ensor v. Wilson — 2,500,000
(Jefferson County) Medical malpractice involving childbirth, brain-damaged child. Affirmed by Alabama Supreme Court. (519 So.2d 1244 (Ala. 1987)).

Robbins v. National Security Insurance Company — 2,000,000
No. 87-CV-4063 (Jefferson Co. Cir. Ct.) Fraud.

State Farm Fire and Casualty Company v. Balmer — 1,500,000
86-CV-D-742-N (Verdict 8/05/87). $1,813,404 jury verdict includes $45,650 on breach of contract, $265,000 compensatory damages and $1,500,000 punitive damages on bad faith claim. Bad faith verdict set aside by U.S. District court on Motion for JNOV. (672 F.Supp. 1395 (M.D. Ala. 1987)).

Best Plant Food Products, Inc. v. Cagle — 972,000
(Jackson County) Breach of warranty/fraud/deceit in 1984. Affirmed (510 So.2d 229 (Ala. 1987)).

North Carolina Mut. Life Ins. Co. v. Holley — 500,000
Bad faith failure to pay $2,000 life insurance claim. Remitted to $500,000 by Alabama Supreme Court. (533 So.2d 497 (Ala. 1987)).

State Farm Fire & Cas. Ins. Co. v. Lynn — 250,000
$250,000 punitive damages, $25,000 compensatory, for fraud. Alabama Supreme Court ordered $4,078 remittitur of compensatory award and affirmed. (516 So.2d 1373 (Ala. 1987)).

Kabel v. Brady — 162,500
$162,500 punitive damages, $609 compensatory, where chiropractor fraudulently represented that Medicare would cover services performed. Affirmed (519 So.2d 912 (Ala. 1987)).

Dependable Ins. Co. v. Kirkpatrick — 150,000
$150,000 punitive damages for conversion of vacation cabin and its contents. Affirmed (514 So.2d 804 (Ala. 1987)).

John Hancock Variable Life Ins. Co. v. Pierce — 150,000
Fraud against insurance company. Affirmed (530 So.2d 719 (Ala. 1987), *cert. denied*, 486 U.S. 1032 (1988).

Hayes v. Payne — 140,000
Fraud verdict affirmed on return after remand (523 So.2d 333 (Ala. 1987)).

(Wrongful Death)

Dale, Estate of v. Griffin, Dept. of Mental Health — 11,701,372
Wrongful death; truck contacted low power lines. No. 85-CV-138-K (Montgomery Co. Cir. Ct., 1987).

Black Belt Wood Co. v. Sessions — 3,500,000
Jefferson County wrongful death death involving improperly loaded log truck. Affirmed (514 So.2d 1249 (Ala. 1987)).

Estate of John Meadows v. Ridgeview Healthcare Center — 2,000,000
No. 87-CV-501 (Walker County Cir. Ct.) Wrongful death. Reversed and remanded (590 So.2d 243).

Talmage v. Humana Hospital Florence, et al. — 1,500,000
Wrongful death. Settled post-trial. No. 85-CV-135 (Lauderdale Co. Cir. Ct., September 10, 1987).

Curry, Estate of v. Alabama Gas, et al. — 1,250,000
No. 86-CV-323-G (Montgomery Co. Cir. Ct., 1987).

Kathy Dunaway v. Alabama Power Company — 500,000
Montgomery County wrongful death. Appealed. JNOV for defendant reversed and remanded (502 So.2d 726 (Ala. 1987)).

Hixon v. Village West Trailer Park **Wrongful death involving drowning of child in trailer park swimming pool. Reversed and rendered on appeal (533 So.2d 518 (Ala. 1988)).**	**750,000**

1986

(Non-Wrongful Death)

Davison v. Mobile Infirmary **Mobile County $8 million punitive damages for medical malpractice remitted to $1,350,000. Remanded for second trial (456 So.2d 14 (Ala. 1984)). On appeal (518 So.2d 675 (Ala. 1986)).**	**8,000,000**
Bearden v. Anonymous Physicians and Hospital **$1,000,000 Medical malpractice involving childbirth; severe brain damage. CV-83-418 (Tuscaloosa Co. Cir. Ct., 1986).**	**1,000,000**
AmSouth Bank v. Speigner **Elmore County Wrongful completion, cashing of $25,000 check. Settled on appeal. (505 So.2d 1030 (Ala. 1986)).**	1,000,000
Rollison Logging Company of Alabama, Inc. v. John Ellis **Alleged fraud involving proposed purchase of logging equipment. Compensatory damages in the amount of $78,416 and punitive damages in the amount of $921,584. Remitted to $200,000. CV-84-03 (Cherokee Co. Cir. Ct., May 12, 1986).**	**921,584**
L.W. Johnson & Assoc. v. Rivers Constr. Co. **Marion County fraud action by county against developer involving $165,000 compensatory damages. Affirmed (532 So.2d 618 (Ala. 1988)).**	**500,000**
Mobile Dodge, Inc. v. Alford **$125,000 punitive damages (general verdict) for fraud by used car dealer. Affirmed (487 So.2d 866 (Ala. 1986)).**	**125,000**

(Wrongful Death)

Beck, Murray, Tull v. Piper Aircraft, et al. **Wrongful death. CV-83-6266 (Jefferson Co. Cir. Ct., 1986).**	**5,175,000**
Patricia L. Crandall, et al. v. Rudolph B. Williams **One death—$500,000, one personal injury—$2,500,000 (compensatory and punitive—general verdict); two personal injuries—$2,500 each (compensatory and punitive—general verdict), one subrogation—$30,000. Affirmed (514 So.2d 1249 (Ala. 1986)).**	**3,000,000**

Williams v. Price **Wrongful death involving drunk driver. (514 So.2d 1267 (Ala. 1986)).**	**500,000**

1985

(Non-Wrongful Death)

Holt v. State Farm Mutual **Fraud involving uninsured motorist stacking; $10,000 contract claim. Settled post-trial. CV-82-686 (Clay Co. Cir. Ct., 1985).**	**25,000,000**
McMillian v. Massey Ferguson, Inc. et al. **$10.5 million general verdict which included $584,000 actual damages for partial leg amputation caused by alleged wantonness in design & manufacture of grain auger. Settled pending appeal. CV-82-686 (Mobile Co. Cir. Ct., 1985).**	**10,500,000**
American Pioneer Life Ins. Co. v. Sandlin **Marion County $3 million punitive damages for fraud involving $100,000 compensatory damages. Affirmed (470 So.2d 657 (Ala. 1985)).**	**3,000,000**
Pasquale Food Co. v. Shakey's Inc. **Punitive damages for intentional interference with business relationship and improper acquisition of trade secrets. CV-82-2606 (Jefferson Co. Cir. Ct., 1985).**	**3,000,000**
Nationwide Mut. Ins. Co. v. Clay **Mobile County Bad faith involving $40,000 disability claim. Affirmed (469 So.2d 533 (Ala. 1985)).**	**1,250,000**
Griggs v. Northrop King and Alabama Feed Serv. **Verdict: $700,000; $100,000 actual damages; $600,000 punitive damages; asked for 1.4 million. Old seed sent to plaintiff instead of feed and plaintiff's cattle suffered problems. CV-85-4956 (Jefferson Co. Cir. Ct.).**	**600,000**
Alabama Power Co. v. Beam **Upheld $250,000 verdict for failure to provide safe place to work. (472 So.2d 619 (Ala. 1985)).**	**250,000**
Cooper Chevrolet, Inc. v. Chambers **$150,000 punitive damages for intentional fraud on sale of used car. Affirmed (529 So.2d 913 (Ala. 1985)).**	**150,000**

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(Wrongful Death)

Hicks v. Ireland — 25,000,000
Wrongful death resulting of from improper release of mentally ill patient who committed murder. Settled prior to appeal. CV-81-1621 (Montgomery Co. Cir. Co., 1985).

General Motors Corp. v. Edwards — 4,000,000
Jefferson County. Two plaintiffs at $2 million each. Remitted by trial court to $1.4 million each. Vehicle crashworthiness case. Affirmed (482 So.2d 1176 (Ala. 1985)).

May v. Lloyd Noland Foundation — 4,000,000
Wrongful death of baby. Settled post-trial. CV-79-583 (Jefferson Co. Cir. Ct., 1985).

Wright v. Superior Gas — 3,600,000
Wrongful death. Settled post-trial. CV-84-47 (Macon Co. Cir. Ct., 1985).

Hudson v. K&S Industries, Inc. — 2,000,000
Wrongful death. CV-84-593 (Montgomery Co. Cir. Ct., 1985).

1984

(Non-Wrongful Death)

Langston v. Osborne Truck Lines, Inc. — 2,581,000
$2,581,000 punitive plus compensatory damages award for injuries suffered in a traffic accident on September 15, 1981. ($1,525,000 to one plaintiff); $1,000,000 to one plaintiff); ($56,000 to one plaintiff). Three plaintiffs; two severely injured, one suffered minor injuries. Affirmed (454 So.2d 1317 (Ala. 1984)).

(Wrongful Death)

Deaton, Inc. v. Burroughs — 835,000
Wantonness alleged for improperly loaded truck resulting in wrongful death. Verdict of $835,000 affirmed (456 So.2d 771 (Ala. 1984)).

1983

(Non-Wrongful Death)

Parsons Steel Industries, Inc. v. First Alabama Bank of Montgomery, Fraud involving bank's breach of loan commitment. (Montgomery Co. Cir. Ct., February 9, 1983). — 4,000,000

Elting Center Corporation v. Owen's Corning Fiberglass Corp. Fraud, breach of express warranty action in connection with failure of roof on shopping center. (Lauderdale Co. Cir. Ct., April 3, 1983). — 1,557,000

National Sec. Fire & Gas Co. v. Bowen — 1,500,000
Landmark outrage and malicious prosecution case; affirmed verdict of $1,500,000 where special damages were about $50,000. (447 So.2d 133 (Ala. 1983)).

(Wrongful Death)

Williams v. Alabama Power Company — 3,500,000
Admiralty case involving wrongful death or both parents of a 9 year old girl. Parents killed when boat mast contacted overhead power line. (Mobile Co. Cir. Ct.).

1982

(Wrongful Death)

Drs. Lane, Bryant, et al. v. Otts — 5,000,000
Mobile County, wrongful death arising from complications with anesthesia (anesthetist failed to diagnose the developing complications). (Incident occurred on April 30, 1974). (412 So.2d 254 (Ala. 1982)).

Estes Health Care Centers Inc. v. Bannerman — $500,000
$500,000 verdict affirmed; retarded child died after complication developed from scalding bath given by nurse. (411 So.2d 109 (Ala. 1982)).